

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. RANDY L. GARRISS, Defendant.	4:17-CR-40058-KES ORDER DENYING APPEAL OF DETENTION ORDER
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Defendant, Randy Garriss, filed an objection and appealed the order of detention issued by Magistrate Judge Duffy on September 24, 2018. Docket 56. A hearing on this objection was held on October 19, 2018. Docket 61. In the hearing the court reviewed de novo the record and the September 24, 2018 detention findings of Magistrate Judge Duffy. In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), the court concludes that the following facts require the detention of the defendant pending trial in this case.

Part I - Findings of Fact

- (1) There is a serious risk that the defendant will not appear.

Part II - Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the detention hearing held on September 24, 2018 and the October 19, 2018 hearing establishes that:

The defendant is charged in the indictment with conspiracy to defraud the United States and impeding the Internal Revenue Service in violation of 18

U.S.C. §§ 371 and 26 U.S.C. § 7212(a). Because the defendant has been indicted by the grand jury, there is probable cause to believe that he committed the offenses with which he is charged. But the defendant is also presumed innocent. Based on the record herein, I find by a preponderance of the evidence that there is no condition or combination of conditions of release that will assure the presence of the defendant at further proceedings in this matter.

In reaching these decisions, I have considered:

- (1) the nature and circumstances of the offense charged;
- (2) the weight of the evidence against the defendant;
- (3) the defendant's history and personal characteristics, including the defendant's character, physical and mental condition, history of alcohol and illegal substance abuse, family ties, employment, financial resources, length of residence in this community, community ties, past conduct, criminal history, as well as court appearance record;
- (4) the nature and character of defendant's numerous phone and email contacts with law enforcement, the court in the District of Colorado, United States Probation and this court, in that defendant insists upon proof that the United States Constitution applies to him and, in the absence of such proof, he believes that he is not a United States citizen, the United States courts have no authority over him, and federal law enforcement have no authority over him;
- (5) the defendant's claim that he not subject to federal criminal laws because he has signed a "Declaration of Independence"; and
- (6) the defendant had ample opportunity to voluntarily turn himself in after he was made aware of the federal arrest warrant in his case, that because of the beliefs described above in paragraph (4) he did not do so and, further, that when law enforcement agents tried to involuntarily arrest defendant, he fled, crossed a fence, and tried to evade arrest.

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of any attorney for the government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding. Thus, it is

ORDERED that the defendant's appeal of the September 24, 2018 detention order is denied.

Dated October 24, 2018.

BY THE COURT:

/s/ Karen E. Schreier
KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE